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| APPLICATION NO.                        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/822,771                             | 04/13/2004  | Ercole Di Iorio      | M4065.0522/P522-A   | 2817             |
| 24998                                  | 7590        | 09/15/2004           | EXAMINER            |                  |
| DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP |             |                      | HO, HOAI V          |                  |
| 2101 L STREET NW                       |             |                      | ART UNIT            |                  |
| WASHINGTON, DC 20037-1526              |             |                      | PAPER NUMBER        |                  |
|  |             |                      | 2818                |                  |

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                  |  |
|------------------------------|-----------------|------------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |  |
|                              | 10/822,771      | IORIO, ERCOLE DI |  |
|                              | Examiner        | Art Unit         |  |
|                              | Hoai V. Ho      | 2818             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 37-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/146,112.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/13/04</u>   | 6) <input type="checkbox"/> Other: _____                                    |

1. This office acknowledges receipt of the following items from the Applicant:

Information Disclosure Statement (IDS) was considered.

Applicant claimed for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/146,112

2. Claims 37-61 are presented for examination.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 37-42 and 46-51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6738297

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(hereinafter the patent '297). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim seems to differ from the patent '297 in that the claimed invention of the instant application recites a "power circuit, " and a "third circuit" while in the patent '297, however, claimed a "reference circuit," and a "summing circuit," respectively. One of ordinary skill in the art would have recognized that the power circuit and the reference circuit have the same functions for supplying an output current or power to a memory array. Similarly, the third circuit and the summing circuit have the same function as recited in claim 39 of the instant application.

5. Claims 43-45 and 59-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 25 of U.S. Patent No. 6738297 (hereinafter the patent '297). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim seems to differ from the patent '297 in that the claimed invention of the instant application recites a "method for supplying a reference current" while in the patent '297, however, claimed a "method for supplying power to a memory." It would be obvious that one skill in the art should recognized the both methods are the same functions since these methods are provided by the same apparatus as discussed in the previous claims.

6. Claims 52-58 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-15 of U.S. Patent No. 6738297 (hereinafter the patent '297). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim seems to differ from the patent '297 in that the claimed invention of the instant application recites a "power subsystem" while in the patent '297,

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however, claimed a “reference circuit.” One of ordinary skill in the art would have recognized that the power subsystem and the reference circuit have the same functions for supplying an output current or power to a memory array.

***Claim Rejections - 35 USC § 112***

7. Claims 53 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 53, line 2, a “first field effect transistor” is unclear and confusing. How does it relate to a “first field effect transistor” in line 6 of claim 52?

Similarly, claim 56, line 2, a “first bipolar transistor” is unclear and confusing. How does it relate to a “first bipolar transistor” in line 9 of claim 52?

8. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

9. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02 (b)).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai V. Ho whose telephone number is (571) 272-1777. The examiner can normally be reached on 7:00 AM -- 5:30 PM from Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



hvh  
August 21, 2004



Hoai V. Ho  
Primary Examiner  
Art Unit 2818